

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

Cequent Performance
Products, Inc.,

Plaintiff,

v.

Hopkins Manufacturing
Corporation et al.,

Defendants.

Case No.

2:13-cv-15293-MFL-PJK

Judge Matthew F. Leitman

Magistrate Judge

Paul J. Komives

Cequent's Supplement to Its Opposition to Hopkins' Stay Motion

Cequent supplements its Opposition to Hopkins' Stay Motion (ECF # 31) to correct an inconsequential mistake identified today by Hopkins. On page 12 of Cequent's brief, it states that Hopkins did not identify any claim terms for construction by the January 28, 2015, deadline, so that claim construction was not necessary regardless of whether a stay is entered.

Hopkins notified Cequent today that it had identified claim terms for construction in a PDF letter that was one of several attachments to a January 28, 2015, email from a paralegal. Cequent overlooked that PDF because it appeared to be a mere transmittal letter confirming service of the amended non-infringement and invalidity contentions that were attached to that email. And neither the body of the email itself, its subject line, nor the title of that PDF file ("Letter dated January 28, 2015.pdf") suggested otherwise.

Cequent's mistake, however, does not change the ultimate conclusion of its opposition, namely that a stay would not simplify these proceedings enough to justify a stay. If claim construction is required, it would be required regardless of whether there's a stay because at least seven patent claims are not challenged – and will not be affected – by Hopkins' IPR petitions. And any of the challenged claims that do survive IPR would require claim construction, if necessary, regardless of a stay. Thus, Hopkins' demand for claim construction weighs against a stay for the same reason that not demanding claim construction would weigh against a stay: waiting for the IPR petitions to resolve will not change whether claim construction is required.

The Court should deny Hopkins' motion to stay accordingly.

Respectfully submitted,

Dated: March 2, 2015

s/ Matthew J. Cavanagh
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Certificate of Service

I hereby certify that on March 2, 2015, I electronically filed the foregoing paper with the Clerk of Court using the ECF system, which will send notification of such filing to all counsel of record, all of whom are registered ECF participants.

s/ Matthew J. Cavanagh
Counsel for
Cequent Performance Products, Inc.